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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/574,980	04/07/2006	Michael Vassard	2006_0475A	8772
513 7590 06/09/2009 WENDEROTH, LIND & PONACK, L.L.P. 1030 15th Street, N.W., Suite 400 East Washington, DC 20005-1503				
EXAMINER				
CHANG, SUNRAY				
ART UNIT		PAPER NUMBER		
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/574,980

**Applicant(s)**

VASSARD ET AL.

**Examiner**

Sunray R. Chang

**Art Unit**

2121

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 24 February 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 11-22 is/are pending in the application.
- 4a) Of the above claim(s) 1-10 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 11, 12, 14-19 and 21 is/are rejected.
- 7) ☒ Claim(s) 13, 20 and 22 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 April 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

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### ***Examiner's Detailed Office Action***

1. This Office Action is responsive to communication, filed on February 24<sup>th</sup>, 2009;  
Claims 11 – 22 are submitted for examination;  
Claims 1 – 10 have been cancelled from consideration.  
Claims 13, 20 and 22 are objected to since the limitations therein are similar or the same with original objected claim 3.

### ***Response to Arguments***

#### ***Drawings***

2. Prior objection to the drawings regarding claimed issues are not indicated in the drawings which has been withdrawn in response to the replacement drawings submitted in the amendment. However, the amended specification in the “Brief Description of the Drawings” indicates: “figures 1 – 3 are conventional ophthalmic lens drilling operation”, which raises new objection to the drawings as indicated below.

#### ***Claim Objections***

3. The objection to claim 10 has been withdrawn since claim 10 has been cancelled.

#### ***Double Patenting***

4. The nonstatutory obviousness-type double patenting rejections have been withdrawn in response to the cancellation of claims 1 – 10; Applicant's arguments regarding nonstatutory

obviousness-type double patenting which is, however, disagreed with; applicant claims for a method for “calibrating an ophthalmic lens drilling machine, the machine including a drilling tool, an ophthalmic lens support and a programmable guidance unit”, it can simply calibrating the lens support or programmable guidance unit, which is also calibrating the drilling machine. Since the limitations in new claims 11 – 22 are similar with prior limitations in claims 1 – 10, further double patenting rejection have been cited for claims 11 – 22.

*Claim Rejections - 35 USC § 102 & 103*

5. Applicant further argues none of the examiner cited references are teaching drilling machine as claimed by the applicant. As explained above in the “Double Patenting” section, calibrating the lens support or programmable guidance unit, which is also calibrating the drilling machine as claimed. Further **Susnjara** reference teaches drilling a workpiece on a computer numeric controlled machining system as indicated in the rejections.
6. Applicant argues **Guillermin** reference fails to teach “analyzing an image to measure an offset and further compensate the offset” which is agreed, however, **Guillermin** reference is not cited for this limitation but **Kilian** reference as indicated in the rejections to forth claim 4 and 9.
7. Newly presented claims 11 – 22 have similar limitations in cancelled claims 1 – 10, for example, claim 11 corresponds to claim 1, claims 2, 3 and 5 – 9 corresponds to claims 2, 3 and 12, 13 and 15 – 19, claim 14 corresponds to claims 1 and 4.

### *Drawings*

8. The drawings have been further objected for the label, "Prior art", needs to be indicated in fig. 1 – 3, since they are "conventional ophthalmic lens drilling operation" as indicated in the amendments to the specification filed on February 24<sup>th</sup>, 2009.

### *Double Patenting*

9. **Claims 11 – 22 are rejected** on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1 – 20 of Patented Application No. 10/548,466, (U.S. Patent No. 7,191,030). Although the conflicting claims are not identical, they are not patentably distinct from each other because:

Both applications claims the method of measuring offsets (angular / location) and further calibrates the tools (drilling/grinding), using a workpiece (template/reference part) to work on, then using optical method to measure the offsets.

This is non-provisional obviousness-type double patenting rejection because the conflicting claims have in fact been patented on March 13<sup>th</sup>, 2007.

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

10. **Claim(s) 11, 12, 14 – 16, 18, 19 and 21 is/are rejected** under 35 U.S.C. 103(a) as being unpatentable over Laurent Guillermin (U.S. Patent No. 5,806,198, and referred to as **Guillermin** hereinafter), and in view of Friedrich Kilian et al. (U.S. Patent No. 5,304,773, and referred to as **Kilian** hereinafter), further in view of Kenneth J. Susnjara (U.S. Patent No. 6,480,757, and referred to as **Susnjara** hereinafter).

**Regarding claim(s) 11 and 10,**

**Guillermin** teaches,

- Method of calibrating an ophthalmic lens machine; [Abstract]
- an ophthalmic lens support associated with a first coordinate system; [13, fig. 2]
- programmable means for guiding the tool, which are associated with a second coordinate system expressing command coordinates which define a target point [col. 6, lines 33 – 36]
- a template is placed on the support, the template having pre-applied markings defining a third coordinate system related to the said template, such that the third coordinate system is made to substantially coincide with the first coordinate system; [calibration template, title, Abstract, specification]

The examiner further explains, **Guillermin** reference teaches a method to calibrate a an ophthalmic lens grinding machine (which is similar with applicants' patent 7,191,030), includes calibration method using a calibration template, supporting tools; **Guillermin** reference does not teach drilling tools and a camera to get the image of the offset, yet, applicants are claiming a method for calibrating machines, drilling tool or optical method are not considered as an invention in current application.

**Kilian** teaches,

- the template is drilled, a real drilling point is obtained, an image of the template drilled is created; the said image is analyzed by image analysis means, so as to measure the offset between the position of the real drilling point and the position of the target point; and the guidance means are programmed so as to introduce a correction of the command coordinates capable of compensating for the said offset. [fig. 9 – 12; a laser work station in which a workpiece guidance system may be calibrated to reflect the actual position of the workpiece therein, col. 1, lines 7 – 10; sensor, col. 8, line 3 – col. 9, line 18] for the purpose of indexing the sensor assembly to a preselected position relative to the approximate position of a reference formation on the workpiece, and moves it in a predetermined path from the preselected position to sense passage of the beam over the edge of the reference formation, and the work station uses data obtained from such sensing of the passage of the beam over the edge of the reference formation to adjust the coordinates of the guidance system to reflect the actual position of the workpiece [Abstract];

**Susnjara** teaches,

- a drilling tool; [a workpiece 35 is mounted to the worktable 108 to receive work functions such as routing, shaping, drilling and the like, col. 2, lines 36 – 49] for locating a workpiece on a computer numeric controlled machining system [col. 1, lines 7 – 8]

It would have been obvious to a person of ordinary skill in the art at the time of applicant's invention to modify the teaching of **Guillermin** to include the teaching of **Kilian** and **Susnjara**, for the purpose of indexing the sensor assembly to a preselected position relative to the approximate position of a reference formation on the workpiece, and moves it in a predetermined path from the preselected position to sense passage of the beam over the edge of the reference formation, and the work station uses data obtained from such sensing of the passage of the beam over the edge of the reference formation to adjust the coordinates of the guidance system to reflect the actual position of the workpiece [**Lilian**, Abstract] and locating a workpiece on a computer numeric controlled machining system [**Susnjara**, col. 1, lines 7 – 8].

**Regarding claim(s) 12,**

**Kilian** teaches the method according to claim 1, characterized in that

- the markings defining the third coordinate system comprise markings which define a centre and markings which define two orthogonal axes. [P1, P2, X-axis and Y-axis, col. 8, lines 54 – 55; examiner's explanation: X-axis and Y-axis is necessarily to have a cross at the original point which is the center]

**Regarding Claims 13, 20 and 22 is/are objected to** as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of



the base claim and any intervening claims. Claims 13, 20 and 22 use two predetermined points and the mean value of the offsets of the position of the two real drilling points; the applicants have been suggested to further include drawings to present limitations in 13, 20 and 22 to overcome the objection to the drawings and to include the limitations in 13, 20 and 22 into independent claims.

**Regarding claim(s) 14, 19 and 21,**

**Guillermin and Susnjara** teach most of the limitations in independent claims 14 and 21; Regarding further limitations,

**Kilian** teaches,

- an image capture device; image analysis means connected to the said image capture device, adapted to detect the position of the image of a real drilling point of a template, in a coordinate system defined by the image of markings appearing on the said template, and to calculate an offset of position of the said image with respect to a predetermined target point defined by pre-recorded coordinates; and programming means connected on the one hand to the image analysis means and on the other hand to the means of guiding an ophthalmic lens drilling machine, the said programming means being adapted to receive an offset information element from the image analysis means, and to program the guidance means of the machine in response, so as to introduce a correction of the command coordinates as a function of the said offset information. [fig. 9 – 12; a laser work station in which a workpiece guidance system may be calibrated to reflect the actual position of the workpiece therein, col. 1, lines 7 – 10; sensor, col. 8, line 3 – col. 9, line 18]

**Regarding claim(s) 15 and 18,**

**Kilian** teaches, device according to claim 4, characterized in that it additionally comprises

- a screen and means for illuminating an ophthalmic object, enabling a shadow of the template to be projected on to the screen, the said screen being placed in the field of observation of the said image capture device. [Position determining means, col. 2, lines 29 – 41]

**Regarding claim(s) 16,**

**Kilian** teaches, device according to claim 5, characterized in that it comprises

- a transparent support to receive the template, positioned between the means of illumination and the screens. [38, fig. 14]

11. **Claim(s) 17 is/are rejected** under 35 U.S.C. 103(a) as being unpatentable over **Guillermin** in view of **Kilian**, **Susnjara**, and further in view of **Kazumi Haga et al.** (U.S. Patent No. 5,497,234, and referred to as **Haga** hereinafter)

**Haga** teaches, a collimator positioned between the means of illumination and the transparent support to make the light rays emitted by the means of illumination substantially parallel to each other and normal with respect to the support. [The collimator lens arranged between the beam splitter and the sample surface is used for converting the lights passed through the pinhole into parallel lights as well as for converge the lights reflected by the sample surface,

col. 3, lines 54 – 62], for converting the lights passed through the pinhole into parallel lights [col. 3, lines 54 – 62]

### *Conclusion*

12. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

### *Correspondence Information*

13. Any inquires concerning this communication or earlier communications from the examiner should be directed to Sunray Chang, who may be reached Monday through Friday, between 6:00 a.m. and 3:00 p.m. EST. or via telephone at (571) 272-3682 or facsimile transmission (571) 273-3682 or email [sunray.chang@uspto.gov](mailto:sunray.chang@uspto.gov).

If you need to send an Official facsimile transmission, please send it to (571) 273-8300.

If attempts to reach the examiner are unsuccessful in the regular office hour, the Examiner's Supervisor, Albert Decady, may be reached at (571) 272-3819.

***Sunray Chang***

Art Unit 2121

/Albert Decady/  
Supervisory Patent Examiner, Art Unit 2121  
June 9, 2009

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